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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/676,499

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Theodore C. Tanner JR.

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LEE & HAYES PLLC

421 W RIVERSIDE AVENUE SUITE 500

SPOKANE, WA 99201

EXAMINER

GELAGAY, SHEWAYE

ART UNIT

PAPER NUMBER

2137

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/676,499	Applicant(s) TANNER ET AL.	
	Examiner SHEWAYE GELAGAY	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicant's amendment filed on March 28, 2008. Claims 23-45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention.
2. Claims 23-45 are cancelled. Claims 1-22 are pending.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 recites "a processor-readable medium having a process-executable instructions." The specification on page 7, pp. 135, recites "a computer-readable media may comprise computer storage media and communication media...a modulated signal, such as a carrier wave." A signal does not fall within one of the four category classes set forth in 35 U.S.C. 101. Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory.
5. Claims 2-8 inherit the defects of claim 1 and are also rejected for the same reason set forth above.
6. Claims 17-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 17 recites a system claim without any structural component and consists solely of language that could be implemented with

only software. Claim 17 does not provide any functional interrelationship to any software and hardware structural components to provide certain function that is processed by a computer.

7. Claims 18-22 inherit the defects of claim 17 and are also rejected for the same reason set forth above.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirovski et al. (hereinafter Kirovski) US 2002/0107691.

As per claims 1, 8-9 and 16-17:

Kirovski teaches a processor-readable medium having processor-executable instructions that, when executed by a processor, performs a method comprising: determining where a dynamic embedded-signal detection program module ("detector") receives a subject input stream for the detector to perform detection thereon to determine if the stream has an embedded-signal therein; (page 1, pp. 56-60; page 53, pp. 153-154) interfering with clear reception of the subject input stream, thereby hindering detection by the detector. (page 1, pp. 56-60; page 53, pp. 153-154)

As per claims 2, 10 and 18:

Kirovski further teaches observing the detector in a processor-readable memory of a computer to determine its location in such memory. (page 1, pp. 56-60; page 53, pp. 153-154)

As per claims 3, 11 and 19:

Kirovski further teaches wherein the interfering comprises adjusting "play-rate" of the incoming stream. (page 1, pp. 56-60; page 53, pp. 153-154)

As per claim 4-5, 12-13 and 19-20:

Kirovski further teaches wherein the interfering comprises introducing a countersignal into the incoming stream. (page 1, pp. 56-60; page 53, pp. 153-154)

As per claim 6, 14 and 21:

Kirovski further teaches maintaining the interfering while the input stream is being consumed. (page 1, pp. 56-60; page 53, pp. 153-154)

As per claims 7, 15 and 22:

Kirovski further teaches wherein the type of the subject input stream is selected from a group consisting of image, audio, video, multimedia, software, metadata, and data. (page 1, pp. 56-60; page 53, pp. 153-154)

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Felten et al. "Reading Between the Lines: Lessons from the SDMI Challenge" USENIX, August 13-17, 2001 in view of Cox et al. "Some general methods for tampering with watermarks" IEEE , 1998, pages 1-15.

As per claims 1, 8-9 and 16-17:

Felten teaches a processor-readable medium having processor-executable instructions that, when executed by a processor, performs a method comprising: determining where a dynamic embedded-signal detection program module ("detector") receives a subject input stream for the detector to perform detection thereon to determine if the stream has an embedded-signal therein; (Abstract; 1. Introduction; 3.1 Attack and Analysis of Technology A; 5. conclusion) In addition, Felten discloses refining attacks to introduce distortions. Felten fails to explicitly disclose interfering with clear reception of the subject input stream, thereby hindering detection by the detector. Cox in analogous art, however, teaches interfering with clear reception of the subject input stream, thereby hindering detection by the detector. (5. Signal Transformation) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the system disclosed by Felten with Cox in order to examine to what extent a watermark can be resistant to tampering to a variety of possible attacks. (Cox Abstract)

As per claims 2, 10 and 18:

The combination of Felten and Cox teaches all the subject matter as discussed above. In addition Felten further teaches observing the detector in a processor-readable

memory of a computer to determine its location in such memory. (3.1 Attack and Analysis of Technology A)

As per claims 3, 11 and 19:

The combination of Felten and Cox teaches all the subject matter as discussed above. In addition Cox further teaches wherein the interfering comprises adjusting "play-rate" of the incoming stream. (5. Signal Transformation)

As per claim 4-5, 12-13 and 19-20:

The combination of Felten and Cox teaches all the subject matter as discussed above. In addition Cox further teaches wherein the interfering comprises introducing a countersignal into the incoming stream. (5. Signal Transformation)

As per claim 6, 14 and 21:

The combination of Felten and Cox teaches all the subject matter as discussed above. In addition Cox further teaches maintaining the interfering while the input stream is being consumed. (5. Signal Transformation)

As per claims 7, 15 and 22:

The combination of Felten and Cox teaches all the subject matter as discussed above. In addition Cox further teaches wherein the type of the subject input stream is selected from a group consisting of image, audio, video, multimedia, software, metadata, and data. (5. Signal Transformation)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWAYE GELAGAY whose telephone number is (571)272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. G./
Examiner, Art Unit 2137

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2137